

FIRST REGULAR SESSION

HOUSE BILL NO. 259

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES HAYWOOD, JONES (Co-sponsors), WALKER, FRASER,
GRAHAM, HARRIS (23) AND YAEGER.

Read 1st time January 23, 2003, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

0106L.011

AN ACT

To repeal section 375.918, RSMo, and to enact in lieu thereof one new section relating to use of credit scoring for insurance purposes.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 375.918, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 375.918, to read as follows:

375.918. 1. As used in this section, the following terms mean:

- (1) "Adverse action", a denial, nonrenewal of, or a reduction in the amount of benefits payable or types of coverages under any [contract, existing or applied for, in connection with the underwriting of insurance] **existing or applied for insurance contract**. An offer by an insurer to write a contract through an affiliated insurer does not constitute an adverse action;
- (2) "Contract", any [automobile] insurance policy [as defined in section 379.110, RSMo, or any property insurance policy as defined in section 375.001], including such a policy on a mobile home or residential condominium unit or a policy of renters' or tenants' insurance[. Contract shall not include any policy of mortgage insurance or commercial insurance];
- (3) "Credit report", any written or electronic communication of any information by a consumer reporting agency that:
- (a) Bears on a person's credit worthiness, credit standing, or credit capacity; and
- (b) Is used or collected wholly or partly to serve as a factor in the underwriting of a contract;
- (4) "Credit scoring entity", any entity that is involved in creating, compiling, or providing

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law. Matter in boldface type in the above law is new proposed language.

16 insurance credit scores;

17 (5) "Insurance credit score", a numerical representation of the insurance risk a person
18 presents using the person's attributes derived from a credit report or credit information in a
19 formula to assess insurance risk on an actuarial or statistical basis;

20 (6) "Insurer", any insurance company or entity that offers a contract;

21 (7) "Underwriting", the selection of the risk that will be assumed by the insurer on a
22 contract, and specifically the decision whether to accept, deny, renew, nonrenew, reduce, or
23 increase the amount of benefits payable or types of coverages under the contract.

24 2. An insurer using a credit report or insurance credit score as a factor in underwriting
25 **or for any other insurance purposes** shall not take an adverse action based on such factor
26 without consideration of another noncredit-related [underwriting] **insurance** factor.

27 3. No insurer shall take an adverse action against an applicant or insured based on
28 inability to compute an insurance credit score without consideration of another [underwriting]
29 **insurance** factor, unless the insurer can justify the credibility that the lack of an insurance credit
30 score has in underwriting **or any other insurance purpose** to the director of insurance.

31 4. An insurer using a credit report or insurance credit score as a factor in underwriting
32 a contract **or for any other insurance purpose** shall disclose at the time of the original
33 application for the contract or on the application itself that the insurer may gather credit
34 information.

35 5. An insurer using a credit report or insurance credit score as a factor in underwriting
36 of a contract **or for any other insurance purpose** shall not take an adverse action on such
37 contract based on information that is the subject of a written dispute between the policyholder
38 or applicant and a consumer reporting agency, as noted in such person's credit report, until such
39 dispute has reached final determination in accordance with the federal Fair Credit Reporting Act,
40 15 U.S.C. Section 1681, et seq. In the event that information is the subject of a written dispute
41 under this subsection, the sixty-day period provided by section 375.002 or section 379.110,
42 RSMo, shall be extended until fifteen days after the dispute reaches final determination. Nothing
43 in this subsection shall be construed to require any consumer reporting agency, as defined by the
44 federal Fair Credit Reporting Act, 15 U.S.C. Section 1681, et seq., to include any information
45 on a credit report beyond the extent required by the federal Fair Credit Reporting Act, 15 U.S.C.
46 Section 1681, et seq.

47 6. If the use of a credit report or insurance credit score on a contract results in an adverse
48 action, the insurer shall provide the policyholder or applicant:

49 (1) Notice that a credit report or insurance credit score adversely affected the
50 [underwriting of the] contract;

51 (2) The name, address, and telephone number of the consumer credit reporting agency

52 that furnished the credit information, in compliance with the notice requirements of the federal
53 Fair Credit Reporting Act, 15 U.S.C. Section 1681, et seq.;

54 (3) Notice of the right to obtain a free credit report from the consumer credit reporting
55 agency within sixty days; and

56 (4) Notice of the right to lodge a dispute with the consumer credit reporting agency to
57 have any erroneous information corrected in accordance with the federal Fair Credit Reporting
58 Act, 15 U.S.C. Section 1681, et seq.

59 7. Within thirty days from the date the insurer provides notice of an adverse action
60 pursuant to subdivision (1) of subsection 6 of this section, the applicant or insured may in writing
61 request from the insurer a statement of reasons for such action. For purposes of determining the
62 thirty-day period, the notice of an adverse action is deemed received three days after mailing.
63 The statement of reasons shall be sufficiently clear and specific so that a person of average
64 intelligence can identify the basis for the insurer's decision without further inquiry. An insurer
65 may provide an explanation of significant characteristics of the credit history that may have
66 impacted such person's insurance credit score to meet the requirements of this subsection.
67 Standardized credit explanations provided by credit scoring entities comply with this subsection.

68 8. If an insurer bases an adverse action in part on a credit report or insurance credit score,
69 the applicant or insured may within thirty days of such adverse action make a written request for
70 reunderwriting following any correction relating to the credit report or insurance credit score.

71 9. An insurer may obtain and use a current credit report or insurance credit score on new
72 business or renewal contracts, but shall not take an adverse action with respect to renewal
73 contracts based upon such credit report or insurance credit score until or after the third
74 anniversary date of the initial contract.

75 10. Insurance inquiries shall not directly or indirectly be used as a negative factor in any
76 insurance credit scoring formula or in the use of a credit report in underwriting.

77 11. Nothing in this section shall be construed as superceding the provisions of section
78 375.002 and section 379.114, RSMo. [Nothing in this section shall be construed as prohibiting
79 any insurer from using credit information in determining whether to offer a policyholder or
80 applicant the option to finance or establish a payment plan for the payment of any premium for
81 a contract.] Nothing in this section shall apply to any entity not acting as an insurer or credit
82 scoring entity as defined in subsection 1 of this section.

83 12. No credit scoring entity shall provide or sell to any party, other than the insurer, its
84 insurance company affiliates or holding companies, and the producer from whom the inquiry was
85 generated, data or lists that include any information that in whole or in part is submitted in
86 conjunction with credit inquiries about consumers. Such information includes, but is not limited
87 to, expiration dates, information that may identify time periods during which a consumer's

88 insurance may expire, or other nonpublic personal information as defined under the
89 Gramm-Leach-Bliley Act, 15 U.S.C. Sections 6801 to 6809. The provisions of this subsection
90 shall not preclude the exchange of information specifically authorized under the federal Fair
91 Credit Reporting Act, 15 U.S.C. Section 1681, et seq., the Gramm-Leach-Bliley Act, 15 U.S.C.
92 Sections 6801 to 6809 and other applicable federal law. The provisions of this subsection shall
93 not apply to data disclosed in connection with a proposed or actual sale, merger, transfer or
94 exchange of all or a portion of an insurer's or producer's business or operating unit, including but
95 not limited to, the sale of a portfolio of contracts, if such disclosure concerns solely consumers
96 of the business or unit and such disclosure is not the primary reason for the sale, merger, transfer
97 or exchange.

98 13. A violation of this section may be enforceable under section 374.280, RSMo.

99 14. The provisions of this section shall apply to all contracts entered into on or after [July
100 1, 2003] **January 1, 2004.**